

### REMARKS

In response to the action of September 7, 2006, applicant asks that all claims be allowed in view of the amendment to the claims and the following remarks. This amendment is being filed concurrently with a Request for Continued Examination.

Claims 1-3, 6-9, 12-35, 38-43, 46-53, 56-59, 62-85, 88-93 and 96-100 are pending in the application, and claims 13-34, 39-42, 47-50, 63-84, 89-92 and 97-100 have been withdrawn from consideration. Of the claims under consideration, claims 1, 7, 35, 43, 51, 57, 85 and 93 are independent and have been amended. Support for these amendments may be found in the application at, for example, page 7, lines 16-24. No new matter has been introduced.

Applicants would like to thank Examiner Mackowey and Examiner Johns for the courtesies extended to applicants' representatives during the personal interview conducted on November 14, 2006. This reply reflects the substance of the interview.

#### **Rejection under Section 112, Second Paragraph**

Claim 43 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In response, claim 43 has been amended. As discussed at the interview, applicant believes that all of the Examiner's concerns have been addressed. For at least this reasons, applicant respectfully requests reconsideration and withdrawal of this rejection of claim 43. Applicant notes that claim 85 has been amended to address a similar issue.

#### **Rejection under Section 103**

Claims 1-3, 6-9, 12, 35, 38, 43, 46, 51-53, 56-59, 62, 85, 88, 93 and 96 were rejected under 35 U.S.C. § 103 as being unpatentable over Ritter (U.S. Patent No. 6,657,538) in view of Harkin (U.S. Patent No. 6,327,376). Applicant requests reconsideration and withdrawal of this rejection because neither Ritter, Harkin nor any proper combination of the references describes or suggests the subject matter of the amended independent claims, as described more fully below.

Amended claim 1 recites a system for identifying an individual including, *inter alia*, means for judging legitimacy of the user by checking read biological information with the

reference biological information. The system also includes means for transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological information. The transmitted information indicates that the user is legitimate.

As discussed at the interview, Ritter does not describe or suggest means for transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological information, where the transmitted information indicates that the user is legitimate, as recited in amended claim 1. Rather, Ritter discloses an authentication process that compares current biometric keys derived from the user with stored biometric keys. See Ritter at col. 4, line 26-45. Ritter also discloses transmitting the result of the authentication to an external secured device, which permits or refuses access to the device accordingly. See Ritter at col. 5, lines 10-14. See also Ritter at col. 6, lines 1-10. Examples of external secured devices, as provided by Ritter, include an automatic teller machine, a video terminal for information inquiries, an entrance to a secured building, or the entrance to a restricted area. See Ritter at col. 5, lines 33-40.

Hence, Ritter transmits the results of authentication, which may be positive or negative, and the external secured device permits or refuses access accordingly. Thus, Ritter does not describe or suggest means for transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological information, where the transmitted information indicates that the user is legitimate, as recited by amended claim 1.

The rejection relies on Harkin as disclosing a fingerprint sensing device. However, Harkin's fingerprint sensing device does not remedy Ritter's failure to describe or suggest means for transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological information, where the transmitted information indicates that the user is legitimate, as recited by amended claim 1.

Accordingly, neither Ritter, Harkin, nor any proper combination of the references describes or suggests means for transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological

information, where the transmitted information indicates that the user is legitimate, as recited by amended claim 1.

For at least these reasons, applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1, and its dependent claims 2, 3 and 6.

Similarly to amended claim 1, amended independent claims 7, 35, 43, 51, 57, 85 and 93 each recite transmitting information about the judgment to a destination of communication only when the read biological information has matched the reference biological information, where the transmitted information indicates that the user is legitimate. Accordingly, for at least the reasons described above with respect to claim 1, applicant requests reconsideration and withdrawal the rejection of independent claims 7, 35, 43, 51, 57, 85 and 93 and their dependent claims 8, 9, 12, 38, 46, 52, 53, 56, 58, 59, 62, 88 and 96.

## **Conclusion**

Applicant submits that all claims are in condition for allowance.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant : Shunpei Yamazaki et al.  
Serial No. : 09/833,674  
Filed : April 13, 2001  
Page : 21 of 21

Attorney's Docket No.: 12732-028001 / US4856

The fee in the amount of \$790.00 in payment of the Request for Continued Examination fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 30, 2006

  
\_\_\_\_\_  
Barbara A. Benoit  
Reg. No. 54,777

**Customer No.: 26171**  
Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331

40379974.doc